

MINUTES
HOUSE SELECT COMMITTEE ON HOMEOWNERS ASSOCIATIONS
March 2, 2012

The House Select Committee on Homeowners Associations (Committee) held a public hearing on Friday, March 2, 2012 at 4:00 p.m. at the Havelock Tourist & Event Center, located at 201 Tourist Center Drive, in Havelock, North Carolina. The following members of the Committee were present: Representative Carolyn Justice, Presiding Co-Chair, Representative Jonathan Jordan, Co-Chair, Representative Justin Burr, Representative Bill McGee, Representative Rodney Moore, and Representative Winkie Wilkins. The attending Sergeants-at-Arms were Jesse Hayes and Bill Bass. Attending committee staff members were Committee Counsels Jennifer McGinnis, Dan Ettefagh, Bill Patterson, and Committee Staff Kelly Quick and Denise Adams.

On February 15, 2012, notice was sent to members and interested parties via e-mail. A copy of these notices is included in the attachments to these minutes as **Attachment #1**. Copies of the agenda for the meeting, visitor registration sheets, and on-site speaker sign-up sheets are included in the attachments to these minutes as **Attachment #2**, **Attachment #3**, and Attachment 4 respectively.

Call to order and introductory remarks

Representative Justice called the public meeting to order, and introduced the staff, the Sergeants at Arms, House members in attendance and where they represented. She went on to state that not all legislators on the Committee were in attendance, as the plan was to have a hearing in Raleigh in which all legislators attended (which was held on January 23, 2012); with subsequent hearings held in Eastern North Carolina (which some members would attend), and another hearing in Western North Carolina for which a date and time had yet to be determined (which the rest of the members would attend). Representative Justice also recognized the presence of Representative Norman Sanderson, thanked him for his attendance at the Committee's hearing held in his District (District 3, Craven and Pamlico Counties), and asked him to join the Committee members on the dais.

Representative Justice asked those in attendance who wished to speak, but who had not signed up online, to sign the speaker's sign-up sheet, and assured them that they would be squeezed in after the others speak. She also instructed the audience members that outbursts or emotional displays in support of or objection to other speakers' comments were inappropriate and would not be permitted to prevent unhelpful distractions to the Committee's work. She also instructed the audience on the speaking format, in which the Sergeant at Arms would act as the official timekeeper.

Representative Justice reminded that those wishing to speak were limited to three minutes with the Sergeant-at-Arms giving the warning signs of when the speaker's time was getting short or expired.

Thirty-nine individuals spoke, representing: members of homeowners associations (HOAs), board members and officers of HOAs, HOA management companies, realtors, and attorneys

concerned with HOA matters. In addition to their spoken comments, a number of written statements were submitted to be entered into the Committee record (see **Attachment #4**). .

A variety of comments were received at the hearing including, but not limited to, coverage of the following issues: applicability of the Planned Community Act to pre-1999 communities, and the ability of communities to amend their declarations under the current statute; general strengthening of laws to protect homeowners; enactment of measures to address proxy and voting abuse – either by prohibiting proxies altogether, eliminating unlimited proxies, or allowing ballots rather than proxies; **enactment of** provisions to address HOAs not following the law under Chapter 47F (unresponsiveness to information requests, voting/proxy abuses, inconsistent enforcement of covenants); creation of a government agency to regulate HOAs; allowing alternative dispute resolution in HOA controversies should be a priority to give additional remedy to homeowners (other than initiating costly lawsuits); need for measures to ensure board accountability; licensure of board members; clarifications to Chapter 47F to resolve ambiguities that allow boards and their attorneys to interpret for their own purposes; require open meetings; limit maximum amount of liability insurance for board members to discourage abusive behavior; require education of board members, along with performance standards

Many comments were received in support of HOAs and their current powers. Several speakers emphasized: the rules and regulations must be enforced for the benefit of all homeowners, and HOA authority shouldn't be further restricted; HOAs need all their current tools for enforcement, including foreclosure; HOAs are vital and help retain property values; many HOAs rely on proxy voting because of absentee homeowners.

One speaker, Mr. Joe Creekmore, urged the Committee to consider establishing a program wherein a neutral 3rd party is available to adjudicate disputes in lieu of litigation – a small fee of \$10 could be assessed against every homeowner in an association in order to fund necessary legal staff for such a program. Representative Jordan inquired whether administrative law judges (ALJs) could serve a role in this regard, and instructed staff to follow-up with Mr. Creekmore about his proposal.

Committee Discussion

After the public hearing portion of the meeting concluded, Representative Justice stated that she understood that most of the HOAs in North Carolina were operating fairly, and by the book, and was thankful for that. She went on to state her hope that those same people understood that there are people who have had some serious problems with HOAs that are not acting in their best interests. Representative Justice also assured those that were doing what they were supposed to be doing that the Committee would be cautious in their approach.

Representative Moore thanked those who attended who voiced their concerns, stating that some HOAs are doing a very good job of maintaining high professional standards, and also went on to reiterate that all the members would work to be deliberate in their efforts to fix whatever problems are discovered from the hearings.

Representative Wilkins stated that he could find about half a dozen common problems that were discussed in the public hearings, and the Committee's task would be to identify those problems and approach them in the best order possible.

Representative Justice asked the Committee members to help continue to identify threads that run through all the Committee discussion and public hearings. She also went on to reiterate the plan of hosting a hearing in the western part of the State in April, and then to have another Committee meeting in Raleigh to review all the material that had been discussed before the start of the short session in May. The dates for those meetings will be announced later.

Representative Justice recognized Representative Norman Sanderson, who represents Havelock in the House of Representatives. Representative Sanderson thanked the Committee and all who attended. He cited this meeting as a great example of the democratic process at work, and assured the audience that their concerns are being heard and taken seriously.

There being no further business to come before the committee, Representative Justice thanked everyone for attending the meeting, and the committee adjourned at 6:50 p.m.

Representative Jonathan Jordan, Co-Chair

Representative Carolyn Justice, Co-chair

Attest:

Ed Stiles, Committee Assistant